

### **REMARKS/ARGUMENTS**

The Office Action mailed March 29, 2005 has been carefully considered.

Reconsideration in view of the following remarks is respectfully requested.

Claims 1, 8, 9, 13, 20, 27, 28 and 35 have been amended to further particularly point out and distinctly claim subject matter regarded as the invention. Applicant submits that these amendments are in line with the common usage of the term "VLAN" in the art, namely that having a VLAN be a complete subset of another VLAN is simply never done, and thus all VLANs must contain at least one device that is not a member of another VLAN. The text of claims 2-7, 10-12, 14-19, 21-26, 29-34 and 36-41 is unchanged, but their meaning is changed because they depend from amended claims.

#### **Record of Interview**

On April 20, 2005, an interview was conducted by telephone between Examiner Gregory B. Sefcheck and Marc S. Hanish, Reg. No. 42,626. Applicants thank the Examiner for granting this interview. The details of the interview are set forth in the Interview Summary document made of record.

#### **Informal Objections**

Claims 28-41 stand objected to for failure to point out the specific place in the specification where support can be found for the new claims. Applicant respectfully apologizes for this oversight, and points out that support for these claims may be found on page 8, line 5 through page 10, line 13.

With this amendment it is respectfully submitted the claims satisfy the statutory requirements.

The 35 U.S.C. § 102 Rejection

Claims 1-41 were rejected under 35 U.S.C. § 102(b) as being allegedly anticipated by Ross<sup>1</sup> This rejection is respectfully traversed.

According to the M.P.E.P., a claim is anticipated under 35 U.S.C. § 102(a), (b) and (e) only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.<sup>2</sup>

The Response to Arguments section of the Office Action states:

- In the Remarks on pg. 13 of the Amendment, the Applicant contends that Ross does not disclose isolating a plurality of ports sharing a single VLAN, as specified in claims 1, 8, 9, 13, 20, and 27, as amended, and claims 28 and 35, which are newly added.

- The Examiner respectfully disagrees. Ross discloses a VLAN hub which is configured and maintained through the use of port designations, called VLAN designations. The ports of the hub are isolated based on these "VLAN designations." The Applicant appears to interpret the use of this term to show that Ross utilizes a plurality of VLANs, each assigned a unique designation. However, Ross clearly discloses that these "VLAN designations" are used for segmenting a single VLAN by assigning designations to these ports of one or more hubs within that single VLAN (Abstract; Col. 1, lines 20-44).

Office Action, page 6.

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<sup>1</sup> U.S. Patent No. 5,394,402

<sup>2</sup> Manual of Patent Examining Procedure (MPEP) § 2131. See also *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Contrary to what is stated above, however, Col. 1, lines 20-44 of Ross discloses a LAN, not a VLAN. A LAN is a group of devices organized by physical location. A VLAN is a subgroup of a LAN, including devices organized by something other than physical location (e.g., access rights, shared application, etc.). The Patent Office position appears to be that Ross teaches a VLAN which can then be further subdivided into other VLANs. Applicant believes that interpretation is incorrect. The problem lies with some of the loose terminology utilized in Ross, namely in many section it refers to a "segmented VLAN". Applicant believes that this poor use of wording has led the Patent Office to assume that Ross teaches an individual VLAN being segmented. However, further examination of Ross indicates that "segmented VLAN" means a VLAN segmented out from a LAN, and NOT a VLAN segmented out from another VLAN. For example, col. 2, lines 62-62 indicate that "[e]ach VLAN so provided is made up only of those segments of the larger LAN that are specific unto itself." There is no indication in Ross that it intends to further subdivide a VLAN into additional VLANs.

Nevertheless, to avoid a protracted argument as to the precise definitions of VLANs and LANs, Applicant has elected to amend the claims to ensure that even if Ross is taken to teach further subdividing a VLAN into additional VLANs, that such an embodiment would not anticipate the presently claimed invention. Namely, Applicant has amended the claims to indicate that the VLAN is a group of devices in a LAN, the group including at least one device not belonging to any other VLAN. Applicant believes this definition consistent with the term "VLAN" as how it is commonly used in the art. Specifically, Applicant cannot think of a reason why anyone would subdivide a VLAN into additional VLANs, but can think of instances where a single device could be a member of two or more VLANs. Subdividing a VLAN would require

creating a group of devices that all belonged to the VLAN and the smaller VLAN divided out. For example, assume a LAN contains devices 1 through 10 and VLAN of that LAN contains devices 1 through 5. Subdividing the VLAN would then require creating a new group that contains only devices chosen from devices 1 through 5. As such, the new "sub-VLAN" would contain devices that all belong to the VLAN (for example, devices 1 through 3). The reason Applicant cannot think of a reason why such a designation, is because Applicant cannot think of a reason why such a designation would be needed, as it would simply be a new VLAN of the LAN containing devices 1 through 3, rather than attempt to subdivide. Nevertheless, Applicant has amended the claims to illustrate this difference.

Applicant respectfully submits that this amendment overcomes the rejection for two reasons: (1) Ross teaches segmenting a LAN into multiple VLANs, and not segmenting a VLAN into further VLANs as suggested by the Office Action; and (2) Claim 1 as amended includes an element stating that the VLAN has at least one device not belonging to another VLAN, and Ross would not teach or suggest that.

Claims 8, 9, 13, 20, 27, 28, and 35 as amended contain elements similar to that as described above with respect to claim 1. Therefore, Applicant respectfully maintains that these claims are in condition for allowance for the same reasons as claim 1.

As to dependent claims 2-7, 10-12, 14-19, 21-26, 29-34 and 36-41, the argument set forth above is equally applicable here. The base claims being allowable, the dependent claims must also be allowable.

In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.

Conclusion

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case. Please charge any additional required fee or credit any overpayment not otherwise paid or credited to our deposit account No. 50-1698.

Respectfully submitted,

THELEN REID & PRIEST, LLP



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